

IC 31-40

ARTICLE 40. JUVENILE LAW: FUNDING

IC 31-40-1

Chapter 1. Cost of Services; Liability of Parent or Guardian to Pay

IC 31-40-1-1

Sec. 1. This article applies to a financial burden sustained by a county as the result of costs paid by the county under section 2 of this chapter, including costs resulting from the institutional placement of a child adjudicated a delinquent child or a child in need of services.

As added by P.L.1-1997, SEC.23.

IC 31-40-1-2

Sec. 2. (a) The county shall pay from the county family and children's fund the cost of:

- (1) any services ordered by the juvenile court for any child or the child's parent, guardian, or custodian, other than secure detention; and
- (2) returning a child under IC 31-37-23.

(b) The county fiscal body shall provide sufficient money to meet the court's requirements.

As added by P.L.1-1997, SEC.23. Amended by P.L.273-1999, SEC.119.

IC 31-40-1-3

Sec. 3. (a) A parent or guardian of the estate of a child adjudicated a delinquent child or a child in need of services is financially responsible as provided in this chapter (or IC 31-6-4-18(e) before its repeal) for any services ordered by the court.

(b) Each parent of a child alleged to be a child in need of services or alleged to be a delinquent child shall, before a dispositional hearing, furnish the court with an accurately completed and current child support obligation worksheet on the same form that is prescribed by the Indiana supreme court for child support orders.

(c) At:

- (1) a detention hearing;
- (2) a hearing that is held after the payment of costs by a county under section 2 of this chapter (or IC 31-6-4-18(b) before its repeal);
- (3) the dispositional hearing; or
- (4) any other hearing to consider modification of a dispositional decree;

the juvenile court shall order the child's parents or the guardian of the child's estate to pay for, or reimburse the county for the cost of, services provided to the child or the parent or guardian unless the court finds that the parent or guardian is unable to pay or that justice would not be served by ordering payment from the parent or guardian.

As added by P.L.1-1997, SEC.23. Amended by P.L.273-1999, SEC.120.

IC 31-40-1-4

Sec. 4. The parent or guardian of the estate of any child returned to Indiana under the interstate compact on juveniles under IC 31-37-23 shall reimburse the county for all costs involved in returning the child that the court orders the parent or guardian to pay under section 3 of this chapter (or IC 31-6-4-18(e) before its repeal) whether or not the child has been adjudicated a delinquent child or a child in need of services.

As added by P.L.1-1997, SEC.23.

IC 31-40-1-5

Sec. 5. (a) This section applies whenever the court orders or approves removal of a child from the home of a child's parent or guardian and placement of the child in a child caring institution (as defined in IC 12-7-2-29), a foster family home (as defined in IC 12-7-2-90), or the home of a relative of the child that is not a foster family home.

(b) If an existing support order is in effect, the court shall order the support payments to be assigned to the county office for the duration of the placement out of the home of the child's parent or guardian. The court shall notify the court that:

- (1) entered the existing support order; or
- (2) had jurisdiction, immediately before the placement, to modify or enforce the existing support order;

of the assignment and assumption of jurisdiction by the juvenile court under this section.

(c) If an existing support order is not in effect, the court shall do the following:

(1) Include in the order for removal or placement of the child an assignment to the county office, or confirmation of an assignment that occurs or is required under applicable federal law, of any rights to support, including support for the cost of any medical care payable by the state under IC 12-15, from any parent or guardian who has a legal obligation to support the child.

(2) Order support paid to the county office by each of the child's parents or the guardians of the child's estate to be based on child support guidelines adopted by the Indiana supreme court and for the duration of the placement of the child out of the home of the child's parent or guardian, unless:

(A) the court finds that entry of an order based on the child support guidelines would be unjust or inappropriate considering the best interests of the child and other necessary obligations of the child's family; or

(B) the county office does not make foster care maintenance payments to the custodian of the child. For purposes of this clause, "foster care maintenance payments" means any payments for the cost of (in whole or in part) and the cost of providing food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable amounts for travel to the child's home for visitation. In the case of a child caring institution, the term also includes the reasonable costs of

administration and operation of the institution as are necessary to provide the items described in this clause.

(3) If the court:

(A) does not enter a support order; or

(B) enters an order that is not based on the child support guidelines;

the court shall make findings as required by 45 CFR 302.56(g).

(d) Payments in accordance with a support order assigned under subsection (b) or entered under subsection (c) (or IC 31-6-4-18(f) before its repeal) shall be paid through the clerk of the circuit court as trustee for remittance to the county office.

(e) The Title IV-D agency shall establish, modify, or enforce a support order assigned or entered by a court under this section in accordance with IC 12-17-2 and 42 U.S.C. 654. The county office shall, if requested, assist the Title IV-D agency in performing its duties under this subsection.

(f) If the juvenile court terminates placement of a child out of the home of the child's parent or guardian, the court shall:

(1) notify the court that:

(A) entered a support order assigned to the county office under subsection (b); or

(B) had jurisdiction, immediately before the placement, to modify or enforce the existing support order;

of the termination of jurisdiction of the juvenile court with respect to the support order;

(2) terminate a support order entered under subsection (c) that requires payment of support by a custodial parent or guardian of the child, with respect to support obligations that accrue after termination of the placement; or

(3) continue in effect, subject to modification or enforcement by a court having jurisdiction over the obligor, a support order entered under subsection (c) that requires payment of support by a noncustodial parent or guardian of the estate of the child.

(g) The court may at or after a hearing described in section 3 of this chapter order the child's parent or the guardian of the child's estate to reimburse the county office for all or any portion of the expenses for services provided to or for the benefit of the child that are paid from the county family and children's fund during the placement of the child out of the home of the parent or guardian, in addition to amounts reimbursed through payments in accordance with a support order assigned or entered as provided in this section, subject to applicable federal law.

As added by P.L.1-1997, SEC.23. Amended by P.L.273-1999, SEC.121.

IC 31-40-1-6

Sec. 6. (a) The division, with the approval of the county fiscal body, may contract with any of the following, on terms and conditions with respect to compensation and payment or reimbursement of expenses as the division may determine, for the enforcement and collection of any parental reimbursement obligation established by order entered by the court under section 3 or 5(g) of this chapter:

(1) The prosecuting attorney of the county that paid the cost of the services ordered by the court, as provided in section 2 of this chapter.

(2) An attorney for the county office that paid the cost of services ordered by the court, if the attorney is not an employee of the county office or the division.

(3) An attorney licensed to practice law in Indiana.

(b) A contract entered into under this section is subject to approval under IC 4-13-2-14.1.

(c) Any fee payable to a prosecuting attorney under a contract under subsection (a)(1) shall be deposited in the county general fund and credited to a separate account identified as the prosecuting attorney's child services collections account. The prosecuting attorney may expend funds credited to the prosecuting attorney's child services collections account, without appropriation, only for the purpose of supporting and enhancing the functions of the prosecuting attorney in enforcement and collection of parental obligations to reimburse the county family and children's fund.

As added by P.L.273-1999, SEC.122.

IC 31-40-1-7

Sec. 7. (a) Amounts received as payment of support or reimbursement of the cost of services paid as provided in this chapter shall be distributed in the following manner:

(1) If any part of the cost of services was paid from federal funds under Title IV Part E of the Social Security Act (42 U.S.C. 671 et seq.), the amounts received shall first be applied as provided in 42 U.S.C. 657 and 45 CFR 302.52.

(2) All amounts remaining after the distributions required by subdivision (1) shall be deposited in the family and children's fund (established by IC 12-19-7-3) of the county that paid the cost of the services.

(b) Any money deposited in a county family and children's fund under this section shall be reported to the division, in the form and manner prescribed by the division, and shall be applied to the child services budget compiled and adopted by the county director for the next state fiscal year, in accordance with IC 12-19-7-6.

As added by P.L.273-1999, SEC.123.

IC 31-40-2

Chapter 2. Probation User's Fee; County Supplemental Juvenile Probation Services Fund

IC 31-40-2-1

Sec. 1. (a) Subject to IC 31-40-1-3, a juvenile court may order each delinquent child who receives supervision under IC 31-37-19 or the child's parent, guardian, or custodian to pay to the probation department:

- (1) an initial probation user's fee of at least twenty-five dollars (\$25) but not more than one hundred dollars (\$100); and
- (2) a probation user's fee of at least five dollars (\$5) but not more than fifteen dollars (\$15) for each month the child receives supervision.

(b) The probation department shall deposit the probation user's fees paid under subsection (a) into the county supplemental juvenile probation services fund.

As added by P.L.1-1997, SEC.23.

IC 31-40-2-2

Sec. 2. (a) The fiscal body of the county shall appropriate money from the county supplemental juvenile probation services fund to the juvenile courts of the county for the use by the courts in supplementing probation services to juveniles.

(b) Money in the county supplemental juvenile probation services fund may be used only for supplementing probation services and for salary increases for probation officers in accordance with IC 31-31-5.

As added by P.L.1-1997, SEC.23.

IC 31-40-2-3

Sec. 3. Money remaining in the county supplemental juvenile probation services fund at the end of the county's fiscal year does not revert to any other fund but continues in the county supplemental juvenile probation services fund.

As added by P.L.1-1997, SEC.23.

IC 31-40-2-4

Sec. 4. The county supplemental juvenile probation services fund may not be used to replace other funding or probation services.

As added by P.L.1-1997, SEC.23.

IC 31-40-3

Chapter 3. Guardian Ad Litem or Court Appointed Special Advocate User Fee; Guardian Ad Litem or Court Appointed Special Advocate Fund

IC 31-40-3-1

Sec. 1. Subject to IC 31-40-1-3, juvenile court may order the parent or guardian of the estate of any child for whom a guardian ad litem or court appointed special advocate is appointed to pay to the probation department a user fee of not more than one hundred dollars (\$100) for deposit by the probation department in:

- (1) the guardian ad litem fund if a guardian ad litem has been appointed; or
- (2) the court appointed special advocate fund if a court appointed special advocate has been appointed.

As added by P.L.1-1997, SEC.23.

IC 31-40-3-2

Sec. 2. The fiscal body of the county shall appropriate money from:

- (1) the guardian ad litem fund; or
- (2) the court appointed special advocate fund;

to the juvenile courts of the county for use by the courts in providing guardian ad litem or court appointed special advocate services and the costs of representation for the guardians ad litem or court appointed special advocates.

As added by P.L.1-1997, SEC.23.

IC 31-40-3-3

Sec. 3. Money remaining in the guardian ad litem fund or court appointed special advocate fund at the end of the county's fiscal year does not revert to any other fund but continues in the guardian ad litem fund or court appointed special advocate fund.

As added by P.L.1-1997, SEC.23.

IC 31-40-3-4

Sec. 4. An adoption incentive payment that is paid to Indiana under the federal Adoption and Safe Families Act (42 U.S.C. 473A(d)) must be used for services to facilitate the adoption of children who are in need of services and may be used for postadoption services.

As added by P.L.35-1998, SEC.27.

IC 31-40-4

Chapter 4. Failure to Pay Fees

IC 31-40-4-1

Sec. 1. If the parent or guardian of the estate:

- (1) defaults in reimbursing the county; or
- (2) fails to pay a fee authorized by this article;

the juvenile court may find the parent or guardian in contempt and enter judgment for the amount due.

As added by P.L.1-1997, SEC.23.